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Board Meeting – August 13, 2012

21st Floor – Conference Room 1

Present Board Members:

- Diane McLeod, Acting Chair (DM)
- Andrew Bedar, Member (AB)
- Carol Steinberg, Member (CS)
- Mark Trivett, Member (MT)
- Myra Berloff, Massachusetts Office on Disability Designee (MB)

and

- Thomas Hopkins, Executive Director (TH)
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

Members Not Present:

- Donald Lang, Chair (DL)
- Gerald LeBlanc, Member (GL)
- Walter White, Executive Office of Public Safety Designee (WW)
- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)

1) **Discussion:** Ferry Terminal Building, 707 Shirley St., Winthrop

TH - on August 10, 2012 received letter from Kopelman and Paige

- Terminal was shut down due to noncompliance with 521 CMR based on correspondence from Building Inspector Soper and the Winthrop Commission on Disability
- one of four entrances to the buildings is in compliance, other three are not in compliance because of walkways and thresholds; planning to correct these deficiencies within 90 days

- women's restroom also not compliant and out of order; building was open and women's room was closed; toilet was vandalized and proposed to be repaired by the end of this month
- seeking for the Board to rescind the cease and desist order so that work can go forward; proposing to provide status report by November 1, 2012

MB - can men's room be made a single user toilet room in the meantime that construction is ongoing so that women's toilet room is also available

MB - rescind the cease and desist, grant until November 13, 2012 the building can be used, at which time, all of the corrective action will be completed, until the women's toilet room is repaired, provided that the toilet rooms are single user toilet rooms, the men's room will be converted to a single user unisex toilet room, until such time that the women's room is made accessible

CS - second – carries

MB - expedite

MT - second - carries

**** Donald Lang, Chair (DL) & Raymond Glazier, Executive Office on Elder Affairs Designee (RG), now present ****

2) Discussion: 4 Neptune Road, East Boston (V12-054)

TH - came in on Friday, August 10, 2012

- plan for compliance for the toilet room
- bump out the wall to avoid having to deal with the fire alarm and electrical system
- also plan for area of rescue assistance
- email from Marita Palvacini; plan to comply with the submitted plan; seeking temporary CO
- will comply by December 31, 2012

CS - accept the plans and grant time to December 31, 2012

DM - not open till then? CS- no, do not accept

MT - second – carries

DM - expedite the decision

AB - second - carries

3) Discussion: General Discussion about lack of appearing for Subpoenas

MB - need formal response from legal about protocol for when a person does not appear after a subpoena has been issued; then if no response by then, have legal appear before the Board on the 27th to determine the protocol and submit it in writing

DM - second –

TH - spoke with Rob Anderson from BBRS regarding any potential to go after the building official that did not appear at the 4 Neptune hearing regarding his certification

MB - need a policy in place for this case and any future cases when someone does not honor a subpoena before one of the DPS Boards

- carries

4) Advisory Opinion: Salem City Hall, 92 Washington St., Salem

TH - roofing project, chimney repair, window repair or replacement, masonry repair, all under 30%
- scaffolding for the building which will block 160 feet of accessible route, providing alternate route, 450 feet long

DL - for how long?

MB - should post signage and directions on the website regarding alternate accessible route

TH - 100 day construction period

MB - grant as requested, provided way finding signs at the front of the building and notice at the website about the location of the accessible entrance and how to get there

MT - second – carries

**** Gerald LeBlanc, Member (GL) – now present ****

5) Discussion: Stone House, Cogshell Park, Fitchburg (C11-131)

TH - plan to replace the walkway, shows concrete
- handrail extension approved by the building inspector and the architect to extend 4 inches; complainant disagrees

MB - complainant blind and run into the extension?

TH - no

TH - required to install and complete by June 1, 2012
- sidewalk bumps out around the extension
- the handrail extension complies
- disagree about removing extension because of the existing stone steps for safety

DM - as long as the current flagstone is removed the extensions comply since the path bumps out around the extensions

MB - and the walkway is constructed in accordance with the plan – second

CS - and on the condition that walkway completed pictures submitted – DM accept
- carries

6) Incoming: Concord Baptist Church, 180 Blue Hill Ave., Milton (V12-204)

- TH
- work performed project
 - EXHIBIT - variance application
 - altering stairs and stage for new baptismal pool
 - used 12 times per year, people are escorted into and out of the baptistery
 - the space will continue to be used as a stage when the baptistery is not in use
 - practiced for those unable to access the baptistery are given baptism by water sprinkling

DM - deny

MB - second - carries

7) Incoming: Canton Sports Plex, 5 Carver Circle, Canton (V12-209)

- TH
- EXHIBIT – variance application
 - spending over 30%
 - multiple requests

CS - hearing

MB - second - carries

8) Incoming Discussion: Professional Building, 468 Merrimac St., Methuen (V12-153)

- TH
- presented on July 16th
 - granted for temporary lift with portable lift, with the understanding that full LULA being installed
 - now proposing LULA, received contract and a copy of the check
 - currently a 11/12/12 deadline
 - allowed temporary CO to use the building while in the process of installing the lift
 - saying will be done in 10-11 weeks
 - need shop drawings and plans for installation

MB - stamped architectural plans within 2 weeks and shop plans within 30 days

MT - second – carries

9) Incoming: Hole in One Restaurant, 98 Route 6A, Orleans (V12-208)

- TH
- EXHIBIT – variance application
 - existing two-story with proposed access at both levels
 - serves breakfast and lunch, take-out, sit-down service
 - spending \$150,000.00 for addition, over 30%
 - seeking variance for vertical access between two dining rooms
 - lower level parking
 - upper will be expanding and add an accessible bathroom

MB - hostess at both levels?

CS - grant as proposed, on the condition that someone is looking out at both levels for patrons needing to be seated

DM - second –

CS - and on the condition detailed dimensional plan is submitted that show the compliant toilet rooms and door clearances at the ground floor
- carries

10) Discussion: Question on Cases of the Day

GL - T fines?

TH - still being fined

CS - Pearson Hall Phillips Academy
- did they look into LULA

CS - Sturtevant Hall proposing no accessible bedrooms, since they are in one building on the campus

TH - did not meet distribution requirements
- when accessible rooms built in the one building, they were not distributed to other buildings, should have been a variance then

TH - Spencer Products is also a big case
- fined him \$1,000.00 at last decision, never paid

DL - should not be along hearing, failed to comply with second order of the Board and with reporting requirements

TH - tenants in the building

MB - building owner have a business within the building?

TH - yes, a U-Haul business

DL - need to be consistent
- no running fine?

TH - no issued a one-time fine that was not paid

MB - can we charge interest on fines not paid?

TH - yes most likely

- can we find out what the interest rate

CS - Chicopee, reduction of path of travel and the light post taken care of, but pooling of water was not taken care of?

TH - yes, Mark will be here to address the complaint history

11) Incoming: Amherst Survival Center, 138 Sunderland Rd., Amherst (V12-207)

- TH - EXHIBIT – variance application
- new 6,532 square foot building; community center, food pantry
 - walkout basement
 - seeking variance for vertical access within the building
 - basement will not be used for program activities, only accessed sporadically to restock shelves
 - main floor is main area of the building
 - low ceiling at the basement level
 - basement mainly used as bulk storage

MB - grant, provided the basement is not used beyond anything but bulk storage; have the decision registered with the local registry of deeds, with copy of recording returned to the board within 60 days

AB - Second – carries with DM and CS abstaining

12) Incoming Discussion: MassDOT District Facilities Building, 818 North King St., Northampton (V10-206)

- TH - had ordered that compliance with work performed requirements be met by August 14, 2012, seeking extension to September 30, 2012

MB - grant extension

CS - second- carries with DM as Chair and AB not present

13) Incoming: 11 North Restaurant, 11 North Water St., Edgartown (V12-206)

- TH - EXHIBIT – variance application
- existing restaurant, two floors; first floor 1600 square feet, second floor 1400 square feet
 - spending over \$100,000.00, but also rebuilt the stairs
 - one variance for no accessible entrance
 - entrance was significantly changed
 - work is already done

CS - deny

DM - second – carries

CS - schedule a hearing as soon as possible

MB - second – the Board requests presence at the hearing for building official and architect
- carries

14) Incoming Discussion: Barrington Stage Company, 36 Lindon St., Pittsfield (V12-190)

- TH - brought up old Barrington Stage Company
- tenant within the space, Barrington Stage bought building from VFW, proposing Mr. Finn's Cabaret

- asking for a 2 year time variance for vertical access to connect the first floor and lower level (previous VFW space)

- not doing a whole lot of work at the basement level

MB - what was the issue for representing?

TH - presented wrong address; facts are the same

MB - *reaffirm the prior decision, based on corrected information presented regarding address of the building*

GL - *second –*

CS - upper level accessible?

TH - upper level made fully accessible in 2008 when Barrington Stage Company took over the main floor space

DL - need to determine impracticability argument regarding excessive cost without substantial benefit or technologically infeasible

- *carries*

KS - move up the hearing or leave as is?

TH - yes that was the request of the Petitioners

DL - not fair to others in the process

- do the best that we can with the staff that we have, fair and impartial, no reason to give them preference in hearing schedule

MB - tell them in preparation for their hearing, need to submit plans in proper timeframe prior to the hearing

DL - should have done the prep work prior to the submittal of the variance

CS - *Advise them, that in preparation for the hearing, need to submit plans of existing conditions for both floors and proposed plans*

DM - *second – carries*

15) Incoming: Devereux School, 91 Maple Ave., Rutland (V12-202)

TH - EXHIBIT – variance application

- proposing to take space at existing school

- school for kids with behavioral problems

- proposing to execute deal to take some vacant space (been vacant for 7 years)

- accessible bathrooms and accessible entrance shown in plans; don't want to do the work to make the building accessible

GL - deny
MB - second -
- carries

16) Incoming: Memorial House Apartments, 317 Hollis St., Framingham (V12-201)

TH - EXHIBIT – variance application
- 9.4.2 distribution of Group 2B units, code requires 2A if jurisdiction, but none found
- under 30%
- no variance required for distribution since not over 30%
- have to meet HUD obligations, not ours

DM - no variance required based on lack of jurisdiction, however does not alleviate them from federal requirements

MT - second - carries

17) Incoming: Cedar Glen Care and Rehab Center, 15 Kirkbride Dr., Danvers (V12-203)

TH - EXHIBIT – variance application
- seeking to allow fold-down grab bar in residential room bathrooms
- SK-6, 7/10/12 plans EXHIBIT 2
- 42 inch side grab bar would be installed
- provide residents and staff with open plan area, shower is not confined, but open to the entire bathroom area

MB - grant on the condition that grab folds up and against the wall as well

AB - second – carries

MB - have the petitioner submit updated cut sheets on grab bar being used

AB - second – carries

18) Hearing: Sidewalk, Route 116 and Broadcast Center, Chicopee (C10-110)

DL - called to order at 11:15 a.m., scheduled for 11 a.m.
- introduce the Board

Mark Dempsey, Compliance Officer (MD)

Frank Czepiel, Complainant via conference call (FC)

DL - both sworn in
- EXHIBIT 1 – AAB1-26

FC - complaint was result of prior complaint at which the State installed curb cuts and sidewalks along Route 116; installation appeared fine until it rained

- large 4" deep puddle at one of the curb cuts after rain
- pictures submitted 12 hours after rain

DL - state highway sent the complaint since it is on a state road
MD - yes, notified and green card returned on May 2, 2012

MT - only remaining complaint is pooling water; or is the width of the sidewalk corrected

FC - sidewalk width has been corrected, and wheelchairs are able to get by the areas that were previously complained upon
- main issue is the pooling of water

RG - will also be an issue with ice

DM - find in favor of the Complainant
CS - second – carries

DM - Pooling of water issue corrected by October 30, 2012
CS - second – carries

DM - expedite the decision
CS - second – carries

19) Incoming: Modern Snack Bar, 342 Alden St., Fall River (V12-192)

TH - present on 7/30/12
- pictures of the foundation work
- unclear about vertical wheelchair lift
- seeking variance to use the vertical wheelchair lift in new construction
- building is further along than originally thought
- document submitted shows photo-shopped picture of where the lift is proposed

DM - have TH get in touch with building owner, to notify them that it has to be an enclosed interior lift
GL - second – carries

DM - plans for vertical wheelchair lift, and name of installer and if permit has been issued by State Elevator Board for installation; shop drawings, by August 23, 2012
MB - second – carries with RG not present

20) Incoming: Agassiz House, Radcliffe Institute for Advanced Studies, 14 Mason St., Cambridge (V12-205)

TH - EXHIBIT – variance application

- adding ramp
- seeking variance to have 36 inches between the handrail and curve of ramp

MB - grant both on the condition that ramp maintains 2% cross slope

GL - second – carries with RG not present

21) Incoming: Housing Authority in Chicopee, 100 Debra Dr., Chicopee (V12-210)

- TH - EXHIBIT – variance application
- 100 unit complex in 6 building complex
 - spending \$852,600.00, value of the building that they are working on is \$672,800.00
 - fire occurred in apartment on 4th floor of 4 story apartment building
 - water damage
 - 2 1-br apartments at each of the floors
 - firewall prevented spreading of fire
 - rebuilding all interior partitions
 - seeking variance for distribution of Group 2 units, they have a large portfolio of buildings with 5% of that being 60 units
 - asking for time to determine where the required units can be incorporated within their portfolio of housing authority buildings
 - total of 12 accessible units currently

MB - deny the variance requested

GL - second – carries

22) Discussion: Founders Hall/Stebbins Hall, 21-31 Everett St., Cambridge (V12-062)

- TH - August 1, 2012 submittal from Lesley University and Kevin Murphy
- in direct response to June 25, 2012 hearing and decision issued on July 31, 2012
 - continued some items to have them provide additional information

CS - deny the variance requested for vertical access, it is a substantial benefit based on office usages, and the need for students and others to meet with these tenants of this building

DM - second – carries

- MB - should be able to be fully compliant by September 2014

MB - comply by 8/15/14 for installation of LULA as proposed

DM - second – carries

- KS - also need to vote on other items continued

- TH - 26.5, 26.6, and 26.11 at doors at the second and third floors of Founders Hall
- 26.7, third floor doors

- tread widths and handrails at existing stairs

DM - grant variances for the existing stairs, on the condition that wall side handrails

MB - second – carries

DM - deny 26.11 at second and third floors

MT - second – carries

AB - read page 19, outline of what the \$500,000.00 spending would entail
- portion of the second floor will still remain inaccessible

MB - based on the board's decision that a LULA will be installed, continue the discussion to have the college provide further accessible options, which may include modified variances submit by 10/1/12; need construction cost breakdown by work areas/projects

GL - second – carries

23) Advisory Opinion: Berkshire Bank, 99 North St., Pittsfield – 7.2.2

TH - third presentation
- kiosk provided within the bank
- did not comply originally with 7.2.2 based on size of kiosk
- now proposing side approach
- counter length increased to 36 inches

MB - is intent to be used as desk?
- have to be able to use as a desk to have forward approach

DM - meets all requirements of 7.2.2

CS - teller station and not a desk, then complies with 521 CMR 7.2.2

MT - second – carries

24) Hearing: Pearson Hall, Phillips Academy, 6 Great Quad Road, Andover (V12-130)

DL - called to order at 1:20 p.m.
- introduce the Board

Norton Remmer, Consultant for Phillips Academy (NR)

Gary MiGnault, Phillips Academy (GM)

Peter Kleiner, Architect for Phillips Academy (PK)

DL - all sworn in
- Exhibit 1 – AAB1-34

- PK
- Schwartz Silver Architects
 - part of academy hill national historic site
 - originally located in the center, substantially modified in 1870
 - chapel and library on second floor, and mezzanine levels on the wings
 - 1922 the building was relocated on the campus and completed renovated on the interior and exterior restored to original façade
 - still the same as the 1922 photo
 - accessible from multiple locations on campus
 - four classrooms, two on each floor
 - proposing other uses, but never a substantial need that has required a substantial renovation of the building
 - current project is deferred maintenance
 - series of repairs to the roof and brick repointing, some areas of full rebuilding
 - do to the cost of work and long term goals of the academy; reconfiguring stairs at the north side of the building to allow landing, proposing sloped walkway with accessible entrance created
 - area of refuge also proposed; one entrance to remain as is
 - most traffic enters in great quad entrances (north side)
 - south side flagstaff quad entrances, are not used as frequently; north side is considered the more formal entrance
 - creating areas of rescue assistance at the south side entrance, proposing one entrance at each side to not be accessible
 - also upgrading single user toilet room at the first floor (currently two stalls)
- MB
- variance for one of two reasons, not technologically infeasible
 - why not proposed at south side to make at least one entrance accessible
- PK
- more common for students to enter on the north side based on where they are coming from campus and based on relationship to main circulation space
 - one door rarely used, and the other door is a small convenience door, only 20% of the students go into the building thru that door
- MB
- all entrances required to comply
 - if exit only then may understand better
 - if the door is open for some of the students, not sure why not proposed to be made accessible
- AB
- what is the grade shown on AAB30
- PK
- same as interior at exterior
- DL
- quad with dining hall is not the most used side
 - will go to closest door possible from dining hall
- RG
- pulling out the landing at 3 of the 4 doors
 - replicate north side at south side, is the problem the bulk head?

- PK - yes and the distance between the doors is shorter; would require different design solution
- PK - need to provide long term plans, egress only, meets the need of the current renovation, but may be a larger scheme modification in the future that would require removing any work done at the south side
- DL - what are the long term plans?
- PK - has been looked at as a student center, admin use, archive building, or maintain as classrooms; the plans have changed over the years
- DM - what are the buildings that are on the north side
- PK - dorms, classrooms and admin buildings
- DM - need access at both sides of the building
- DM - grant the variance for one of the two doors at each side, on the condition that one accessible entrance at each side of the building*
- MB - second – carries with MT opposed*
- PK - trying to limit interior work so not proposing vertical access based on the unspecified future use of the building
- would require significant renovation at the interior, and would trigger further code requirements for sprinklers and life safety
- two classrooms at the upper floor
- excessive cost without substantial benefit because of the proposed future use and the elevator location not working for all potential uses of the building, which may occur in the near future
- CS - AAB23 foyer picture, classroom locations
- same dimensions at second floor classrooms
- PK - virtually the same size
- classes are shifted within the building if necessary
- DM - having an elevator or LULA in that location for where the entrances would be
- DM - in its current state as two classrooms on each floor, grant variance for the lack of vertical access, with the understanding that if the building changes the interior structure or use the Petitioners are required to come back before the Board*
- MB - second – carries*
- NM - seek one year to implement the accessible entrance at the other side of the building
- classes start in 4 weeks, would like to avoid the work during the school year at the south side
- CS - north side will be done for the school year this year
- GM - yes, already structural elements in place

DM - verification of completion of the work at the north side entrances by September 15, 2012 and completion of the south side entrances completed and verified as such by August 15, 2013

DM - south side area of rescue assistance also completed by September 15, 2012

RG - north side proposes accessible entrance and area of rescue assistance

KS - other entrance just pulled out to be symmetrical

PK - yes

CS - second – carries

DL - why places of assembly called out for variance?

PK - lack of access to classrooms

DM - previous motions of the Board have covered the variance request from 14.1/12.1.3

CS - second – carries

PK - stair handrails, are proposing one compliant wall side handrail, rather than reworking the interior stair handrails and balusters

MB - grant relief for the existing interior stairs, for the interior on the condition that compliant wall side handrails are provided

DM - second – carries

MB - what is the plan for the two small steps into the corridor

PK - the wall side handrail will extend

DL - plan for exterior stairs seems to show proposed handrails

PK - handrails at both sides of main entrance stairs, proposing no handrails at egress only stairs, so installing handrails at three of the four exterior stairs

DM - AAB17, only shows one handrail at one side in rendering, but in plans shown on both sides

DM - deny the lack of compliant handrails at the fourth door, therefore requiring that handrails be provided at the exterior egress stair

CS - second - carries

DM - compliant wall side handrails to be installed by October 1, 2012

MT - second – carries

25) Hearing: Old Spencer Products Building, 64 Main St., Spencer (V08-075 & C07-353)

DL - call to order at 2:20 p.m.

- introduce the Board

Norman Letendre, Jr (NL), TTN Realty, Manager
Mark Dempsey, Compliance Officer for the Board (MD)
Thomas Hopkins, Executive Director for the Board (TH)

- DL - all sworn in
- EXHIBIT 1- AAB1-9
- TH - substantial record
- packet includes decision last issued in December of 2010
- complaint filed on 10/29/07 regarding martial arts studio opening on second floor
- cited for lack of access 28.1
- stipulated order that variance be submitted by 4/1/08, received letter in February of 2008, rcv'd variance on 4/28/08; reviewed on 6/2/08 and denied
- 12/5/08 sent status request and request for verification of compliance
- hearing scheduled on 5/5/09 for 6/29/09
- letter from owner that said he was in bankruptcy, received on 6/28/09
- 6/29/09 hearing held with complainant and compliance officer appearing
- 8/29/09 hearing held where Donald Berthiaume appeared and the matter continued to have stamped plans
- 10/19/09 board ordered that the work for the main entrance be done by 6/1/10 and bathrooms done by 2/1/11
- due to lack of compliance with that order, fine hearing scheduled for 11/29/10
- hearing held on 11/29/10 and no one appeared, 11/26/10 received email from Letendre regarding appearing at the 11/29/10 hearing via conference call; also received an email from Berthiaume stating that he would be unable to attend on 11/28/10, asking to reschedule
- at 11/29/10 hearing, one-time fine issued of \$1,000.00, fine hearing was continued to 12/13/10
- at 12/13/10 hearing maintained the previous order of the board and reissued date for compliance for the work to be completed and that status reports be submitted
- NL - was told by the building inspector that he could not do the work at the entrance until the Board approved the design
- already removed the bushes in the area of the ramp
- spoke with Joe Laughton who surveyed the property and was told no problem with ramp work at the front of the building, only issue at the rear of the building
- DL - karate studio at the first floor and your business at the second
NL - karate studio at the second floor, my business at the first floor, plumbing and heating supplies; daughter-in-law business at the basement; walk-out basement, so that space is accessible
- making any money on the building?
NL - yes, now breaking even with DIL in basement
- building inspector wants grade plans prior to building the ramp
- doesn't have copy of proposed plans

- was supposed to be submitted a copy of plans to building department, myself and the board, but never received copy of plans, found that nothing was submitted by Berthiaume

TH - will talk to the building department, the plans have already been submitted

CS - U-Haul business still working?

NL - yes, operates out of my business

TH - main tenant left the building?

NL - yes, machine shop moved out to another location down the street

NL - have also already purchased the accessible toilet and sink for the first floor accessible toilet room

TH - plumbing supply?

NL - just a small business, just sell repair parts, not the actual fixtures

DL - thought making progress in 2011 and nothing has happened and never communicated with the Board

- problem is that the regulations are in place and the orders of the board have been ignored

- can't give special consideration for this situation, similar situations throughout the commonwealth

NL - cannot do the elevator?

TH - not an elevator required, a vertical wheelchair lift required

- understand the lift required, but \$20,000.00 for the lift

DL - have to be consistent, seldom have second fine hearings

GL - parking space ever added?

NL - no, not sure where it has to be located, want it to be part of ramp design, expected to be part of ramp construction, since supposed to be close to the ramp

GL - motion to close the building

CS - ramp installed within 30 days?

NL - yes, if I can get the plans

TH - yes, but don't want to be in a position that the board staff is in the middle

- if commit to installing within 30 days, can you notify the building inspector again that the plans have already been accepted

CS - this would be good for business

DL - can bathroom also be done within 30 days

NL - no can be done by the end of the year

TH - also has requirement for the second floor toilet room to be provided

DM - this has dragged on forever and all that we have received is excuses
- would be interested in making a motion

KS - need to address GL's motion first

DL - restate motion

GL - in 5 years haven't even put up an accessible parking sign, therefore shut down the building
DL - no second,

DM - ramp and parking completed within 30 days receipt of the decision; bathroom at first floor completed within 60 days receipt of the decision, if that work is not completed by said time, \$1,000.00/day fine 7 days for each violation, retro to 8/13/12, if not complete within the 60 day timeframe, the building shall be closed

- and verified by staff site visit at the end of each deadline

CS - second –

TH - ok to make plans copy for the petitioner and give him what is in the records, based on records request,
- order remains for the petitioner and the board has not further control over what the building inspector requires

MB - building official needs to understand that the plans that are being provided are the plans that we have received and accepted

- according to the Board information paid \$500 for those plans by the Petitioner; may have to take him to small claims court to get what you paid for

- plans accepted based on the submittal of the plans that compliant ramp would be installed

- carries

DL - what about vertical access and second floor toilet room

CS - continue the matter of vertical access and second floor toilet for 60 days

DM - second – carries

NL - what if building inspector doesn't issue permit to put the ramp up?

- will be stuck with fines

- when spoke to him on Friday

TH - included the decision of the Board when asked building inspector about the status of any possible permits being pulled

- building inspector is responsible to enforce 521 CMR

- can't speak on behalf of building inspector

*** NO MORE DM ****

26) Hearing: Sturtevant Hall, 197 Herrick Rd., Newton Center (V12-154)

DL - called to order at 3 p.m.
- introduce the Board

Jeff Shaw, Donham and Sweeney, Principal (JS)

Jason Breton, Shawmut Design and Construction Project Manager (JB)

Nancy Nienhuis, Andover Newton Theological School (NN)

DL - all sworn in
- EXHIBIT 1 – AAB1-38

JS - handout of the presentation, some additional material beyond what is in the packet, it will cover the same presentation

DL - Accept as EXHIBIT 2
- established in 1875
- shares its campus with Hebrew college
- large commuter population, college age to 80's
- 2/3 are commuters
- houses a portion of the students on campus
- existing dorm building, which for the past several years has been rented out as offices, and is now proposed to be converted back to dorm with student lounge at first floor, floor 2-4 are dorm spaces, with central bathrooms
- first floor accessible toilet room at the first floor, kitchenette created at the upper floors
- because of the work performed, required to comply in full
- second page of handout, campus layout
- 170 bedrooms total
- all but Farwell Hall have accessible bedrooms, first floor has 16 accessible rooms
- of 170 beds, would be required to have 8/9 accessible rooms, and although 16 accessible room within the one Farwell Hall building
- propose to enter into Memorandum of Understanding that in the future will build out the first floor of Kendall hall, apartment style units, to make those units accessible
- seeking variance based on proposal of MOU for Kendall Hall

DL - when are the Kendall Hall proposed to be completed?

JS - believe it was 5 years
- school proposes to have the work done within 10 years

RG - apartment style living is available for everyone except someone with a disability

CS - issue of 10 years and no visitability

- NN - Kendall Hall does have a ramp to the first floor, creating visitability to 14 units at the first floor
- CS - none of the rooms would be accessible, but student center and basement level would be accessible at Sturtevant Hall
- JS - yes
- other accessible toilet rooms throughout campus?
- NN - yes in some buildings, and there are accessible toilet facilities throughout the campus in the student areas, i.e. library, meetinghouse, and café
- CS - why 10 years?
- NN - major renovations in those units to create accessible kitchens and toilet rooms
- AB - kitchenettes?
- JS - located at 2nd, 3rd and 4th floors, and will all be accessible, but proposing no vertical access to those floors
- MB - proposing access into Sturtevant Hall so that the first floor will be accessible
- JS - yes first floor and basement access
- MB - documents submitted says “if a ramp is installed” to Kendall Hall
- NN - metal ramp, temporary permanent ramp, used throughout the campus
- MB - more dorm units than common use classroom buildings?
- JS - yes but declining enrollment
- MB - all rooms are segregated into one type that are accessible
- MT - in Farwell Hall, one accessible men’s and women’s toilet room and shared accessible shower room
- NN - far more housing than needed for the student population
- GL - how do you get away with one accessible shower?
- NN - no one has requested those Farwell units in the past 7 years that have been there, so people have chosen to live elsewhere
- MB - why chosen not to live there?
- NN - most of the students are commuters and average age is 42, so they have their own homes or apartments, only people that stay on campus are those that straight out of college
- there are commuter rooms in Farwell Hall or Appleton Chase
- NN - padlock on 4th floor of Sturtevant Hall due to lack of deferred maintenance, only generated \$15,000-20,000.00 of income for the school, hence the proposal to renovate to have some usable income for the school as dorm room space

DL - (TAPE)

MB - bringing 16 bedrooms back online?

NN - yes

- there are 3 rooms that were maintained as dorm space until the last minute, annual leases so that the tenant space can be used as dorm space if needed

NN - all but the first floor are dorms in Farwell Hall

- only student center on campus will be in Sturtevant Hall, there are other dorms where spaces are provided that students can gather, not a similar space in Farwell Hall

MB - is there a way to make at least one accessible dorm room in Sturtevant Hall?

JS - AAB30, that student lounge takes up 2/3 of floor plate, with lobby, accessible bathroom, conference room, student association office, mail room, and computer lab

CS - hang out in rooms in college not in student lounge, but may be different in this kind of school

NN - most of people tend to visit with other students in cafeteria

- block classes for after work classes to be allowed

JS - did look at putting in an elevator in at the side of the building to not make significant modifications within the building

- estimated cost of that addition, is \$830,000.00

- cost of current project is \$750,000.00

- budget does not allow for the installation of an elevator

CS - what about a LULA or a lift

JS - did look at that as well, but would have to build at the exterior and not access all levels, as a full elevator could

JB - exterior elevator shaft and also cost of the required floor renovations at each floor to make them accessible

- \$200,000.00 for the bathrooms, that would leave it at \$600,000.00

- LULA could possibly be \$100,000.00 for exterior construction

JS - building and grounds office at the basement level, but it is at grade

CS - if the dorm rooms are not filled, then sometimes converted to offices still

- then the lack of vertical access would not allow for access to those rented tenant space

NN - 6 offices out of 32 not accessible currently

JS - proposing to just convert Sturtevant Hall to dorm space

- CS - thought that because of reduction in dorm use, would be reverted back to tenant spaces
NN - no, enough demand within theological schools in the area to fill all rooms
- one floor of Farwell Hall held for potential tenant space
- DL - 9 units required campus wide, 16 provided in Farwell Hall, and proposal to not provide the required 1-2 accessible units with Sturtevant Hall
- CS - okay with Sturtevant Hall not being accessible, but problem with Kendall Hall taking so long to convert the apartment units to 8 accessible first floor units within 10 years
- MB - benefit to live in Sturtevant Hall, would be okay with 5 years to provide the other accessible rooms
- GL - what about an interior vertical lift?
JS - did look into that, but would create additional loss of dorm rooms, and would also require further modifications based on general life safety requirements
- MB - accessible parking space and accessible path of travel?
JS - yes
- CS - dining hall?
NN - part of building 13, upper space is general meeting space, an bottom level is café
- MB - could you drive from Farwell to Café and there is parking at the cafeteria
NN - yes
- CS - length from Farwell to café?
NN - approximately 100 yards
- MB - grant the variance to 8.4 to allow the clustering of accessible dorm rooms in Farwell based on the testimony submitted, on the condition that in 5 years, at least one accessible apartment unit provided, by September 1, 2017*
MT - second – carries with CS opposed
- DL - accessible route and vertical access are similar
- MB - grant the variance for the lack of vertical access to floors 2, 3, and 4 (8.5.1 and 28.1) in Sturtevant*
MT - second – carries with CS and RG opposed
- DL - two doors in series?
JS - main entry has a vestibule door with three steps, proposing accessible ramp to convert window to an accessible entrance, but two doors in series will remain
- doors in question and new accessible entrance are only 7 feet apart

MT - grant variance for 26.7 on the condition that the petitioners submit additional information regarding the entrance as a whole

MB - second – carries

JS - basement and upper floors, proposing to maintain knob hardware
- first floor will all have new compliant hardware
- office hardware at basement level has compliant hardware, but proposing to maintain other door hardware, but not proposing work at the basement level

MB - No variance required for 26.11 for the basement, provided that there is no change of use from the current employee only space at the basement

GL - second – carries

CS - grant door hardware for floors 2-4 (26.11)

MT - second – carries

**** NO MORE MB ****

JS - common area toilet rooms, proposing to maintain as existing at basement, and floors 2-4

AB - no variance required for basement floor, provided that there is no change of use from the currently employee only use

MT - second – carries with CS opposed

AB - grant the variance for 30.1 for floors 2-4

MT - second – carries with RG and AB opposed

MT - grant the variance to 31.1 for floors 2-4

AB - second – carries with CS opposed

27) Discussion: Venus Restaurant and the Cellar Bar, 95 Main St., Easthampton (V09-002)

TH - hearing held and they were ordered to put in incline lift to serve the lower level bar
- they never put the lift in
- rented the first floor to a different business and had her business only at the basement level, never informed the Board
- the first floor tenants are now interested in buying the building
- ran the business in the basement for a couple of months and then closed that business in the basement
- the potential buyers are proposing to buy the building and are working to install the originally proposed incline wheelchair lift
- seeking an additional year to install the lift
- letter from Andy Bristol of Stavros supports the extension request
- seems to be a reasonable request

CS - continue the discussion until next meeting so that TH can get more information about details of the sale, and when the lift will be ordered
AB - second – carries with GL not present

28) Discussion: Meeting and Minutes from 7/30/12

KS - any changes?

AB - 20.12 interior no in for the theater

CS - accept all of the minutes and decision from 7/30/12

AB - second – carries with GL not present

- End of Meeting -